

STATE OF OREGON

COUNTY OF BAKER

ORDER APPROVING AN ADDITIONAL POINT OF DIVERSION, AND PARTIAL
CANCELLATION OF A WATER RIGHT

Pursuant to ORS 540.510 to 540.530, after notice was given and no objections were filed, and finding that no injury to existing water rights would result, this order approves, as conditioned or limited herein, TRANSFER 7486 submitted by:

POWDER VALLEY WATER CONTROL DISTRICT
P.O. BOX 189
NORTH POWDER, OREGON 97867.

The FIRST right to be modified, as evidenced by a PORTION of Certificate 19493, was perfected under Permit 18316 with a date of priority of DECEMBER 10, 1930. The right allows the use of LITTLE MUDDY CREEK, a tributary of the POWDER RIVER, for SUPPLEMENTAL IRRIGATION of 48.7 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 1.22 CUBIC FEET PER SECOND, if available at the authorized point of diversion: NW¼ NE¼, SECTION 19, T 7 S, R 39 EAST, W.M., or its equivalent in case of rotation, measured at the point of diversion from the source.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, or

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2).

Pursuant to ORS 536.075 and OAR 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4.0 acre-feet per acre for each acre irrigated during the irrigation season.

The use shall conform to any reasonable rotation system ordered by the proper state officer.

The authorized places of use are located as follows:

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 22.7 ACRES
SECTION 19

NW $\frac{1}{4}$ NW $\frac{1}{4}$ 26.0 ACRES
SECTION 20
TOWNSHIP 7 SOUTH, RANGE 39 EAST, W.M.

The right to use water for the above purpose is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in the decree.

The SECOND right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for BAKER COUNTY as evidenced by a PORTION of Certificate 73411. The decree is recorded in the Order Record of the Water Resources Director in Volume 6, at Page 291. The date of priority is 1880.

The right allows the use of ROCK CREEK, BIG MUDDY CREEK, and LITTLE MUDDY CREEK, a tributary of the POWDER RIVER, for IRRIGATION of 160.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 4.0 CUBIC FEET PER SECOND, if available at the authorized points of diversion: NE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 34, T 7 S, R 38 E, W.M.; ROCK CREEK PIPELINE - 2960 FEET SOUTH AND 3040 FEET WEST FROM THE NE CORNER, SECTION 34; SE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 35, T 7 S, R 38 E, W.M.; - MAXWELL DITCH, ROCK CREEK; NE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 24, T 7 S, R 38 E, W.M.; MAXWELL DITCH, BIG MUDDY CREEK; SE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 24, T 7 S, R 38 E, W.M.; MAXWELL DITCH, LITTLE MUDDY CREEK, or its equivalent in case of rotation, measured at the points of diversion from the sources.

The amount of water used for irrigation, together with the amount secured under any other right for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated during the irrigation season of each year.

The authorized places of use are located as follows:

NW¼ NE¼ 40.0 ACRES
SW¼ NE¼ 40.0 ACRES
NE¼ NW¼ 40.0 ACRES
SE¼ NW¼ 40.0 ACRES

SECTION 24

TOWNSHIP 7 SOUTH, RANGE 38 EAST, W.M.

The right to use water for the above purpose is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in the decree.

The THIRD right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for BAKER COUNTY as evidenced by a PORTION of Certificate 76596. The decree is recorded in the Order Record of the Water Resources Director in Volume 6, at Page 291. The date of priority is 1883.

The right allows the use of ROCK CREEK, BIG MUDDY CREEK, KILLAMACUE CREEK, and LITTLE MUDDY CREEK, a tributary of the POWDER RIVER, for IRRIGATION OF 236.40 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 5.91 CUBIC FEET PER SECOND, if available at the authorized points of diversion: NE¼ SW¼, SECTION 34, T 7 S, R 38 E, W.M.; ROCK CREEK PIPELINE - 2960 FEET SOUTH AND 3040 FEET WEST FROM THE NE CORNER, SECTION 34; NW¼ NE¼, SECTION 7, T 8 S, R 38 E, W.M.; FORD RUBY INGRAM DITCH, KILLAMACUE CREEK; SW¼ NE¼, SECTION 34, T 7 S, R 38 E, W.M.; FISHER LONG DITCH, ROCK CREEK; NE¼ NW¼, SECTION 26, T 7 S, R 38 E, W.M.; LEONNIG DITCH, BIG MUDDY CREEK; SW¼SE¼, SECTION 23, T 7 S, R38 E, W.M.; LEONNIG DITCH, BIG MUDDY CREEK; SW¼ NE¼, SECTION 22, T 7 S, R 38 E, W.M.; MANSFIELD DITCH, LITTLE MUDDY CREEK - 2461 FEET SOUTH AND 2576 FEET WEST FROM THE NE¼ CORNER OF SECTION 22; SW¼ NE, SECTION 23, T 7 S, R 38 E, W.M.; LITTLE MUDDY

CREEK - 2218 FEET SOUTH AND 1702 FEET WEST FROM THE NE CORNER SECTION 23;

NW¼ SW¼, SECTION 23, T 7 S, R 38 E, W.M.; LITTLE MUDDY CREEK - 1906 FEET NORTH AND 972 FEET EAST FROM THE SW¼ CORNER OF SECTION 23, or its equivalent in case of rotation, measured at the points of diversion from the sources.

The authorized places of use are located as follows:

SE¼ NE¼ 40.0 ACRES
NE¼ SE¼ 39.1 ACRES
NW¼ SE¼ 38.2 ACRES
SECTION 23

NW¼ NW¼ 40.0 ACRES
SW¼ NW¼ 40.0 ACRES
NW¼ SW¼ 39.1 ACRES
SECTION 24

TOWNSHIP 7 SOUTH, RANGE 38 EAST, W.M.

The right to use water for the above purpose is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in the decree.

The applicant proposes to add a point of diversion to:

NW¼ SW¼, SECTION 22, T 7 S, R 38 E, W.M.; ROCK CREEK LITTLE MUDDY CR PIPELINE - 3255 FEET SOUTH AND 165 FEET EAST FROM THE NW CORNER, SECTION 22.

Affidavits were received from BAKER County owners of the road right of way and the water right appurtenant to it. A PORTION of the water right has been abandoned and is requested to be canceled.

The abandoned water right is a PORTION of the right described by a decree of the Circuit Court of the State of Oregon for BAKER County as evidenced by Certificate 76596, State Record of Water Right Certificates. The date of priority is 1883. The water use was for IRRIGATION OF 3.6 ACRES from ROCK CREEK, KILMERQUE CREEK,

and LITTLE MUDDY CREEK, tributaries of the POWDER RIVER. The amount used was 0.09 cubic foot per second, or it's equivalent in case of rotation.

The abandoned portion is located as follows:

NE¼ SE¼ 0.9 ACRES
NW¼ SE¼ 1.8 ACRES
SECTION 23

NW¼ SW¼ 0.9 ACRES
SECTION 24
TOWNSHIP 7 SOUTH, RANGE 38 EAST, W.M.

ORS 540.610 provides: "Whenever the owner of a perfected and developed water right certifies under oath to the water Resources Commission that the water right has been abandoned by the owner and that the owner desires cancellation thereof, the Commission shall enter an order canceling the water right."

A scrivener's error was found on certificate 76596. Big Muddy Creek was not included as a source on the Certificate. The previous Certificate, 57911, lists Big Muddy Creek as one of the sources. There was no intervening action that would have eliminated Big Muddy Creek as a source.

THEREFORE BIG MUDDY CREEK SHALL BE INCLUDED as an authorized source to the confirming and remaining right certificates.

THESE CHANGES TO EXISTING WATER RIGHTS MAY BE MADE PROVIDED WHEN THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

1. The proposed change shall be completed on or before October 1, 2005.
2. The quantity of water diverted at the new points of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water lawfully available at the original points of diversion.
3. When required by the Department, the water user shall install and maintain a headgate, an in-line flow meter,

weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

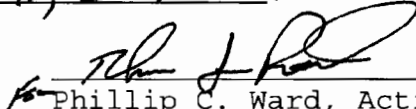
4. When required by the Department, the water user or water control district shall operate and maintain the headgate and measuring device, as needed. The water user or water control district shall report total flow figures when requested by the Watermaster. The Watermaster may operate the headgate and monitor the accuracy of the measuring device, as needed.
5. Water shall be acquired from the same surface water source as the original point of diversion.
6. The water user shall install and maintain a fish screen or fish by-pass device. The type and plans of the screen or by-pass device must be approved by the Oregon Department of Fish and Wildlife prior to beginning of construction and shall be installed under the supervision of the Department of Fish and Wildlife.

The water user may participate in the Oregon Department of Fish and Wildlife's cost sharing program for installation of screening and by-pass devices in accordance with ORS 540.525.

Certificates 19493, 73411 and 76596 are canceled. New certificates will be issued to confirm the portion of the rights NOT involved in this transfer. When satisfactory proof of the completed change is received, new certificates confirming these water rights will be issued.

WITNESS the signature of the Water Resources

Director, affixed AUGUST 11, 2004.


Phillip C. Ward, Acting Director